

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:11-CR-295-BO
NO. 5:15-CV-366-BO

BILLY RAY BULLOCK, JR.,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.


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ORDER

This matter is before the Court on petitioner's motion for leave to amend his motion made pursuant to 28 U.S.C. § 2255. Petitioner seeks to add a claim in light of the Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), which ruled that the residual clause of 18 U.S.C. § 924(e) was unconstitutionally vague. Petitioner argues that, following *Johnson*, his predicate conviction for common law robbery no longer constitutes a crime of violence, thus his sentence as a career offender under United States Sentencing Guideline § 4B1.1 is constitutionally infirm.

Petitioner specifically cited *Johnson* as the basis for his original § 2255 motion. [DE 47 at 10–11]. Accordingly, petitioner's motion [DE 54] is DENIED AS MOOT. Pursuant to 15-SO-2, however, the Office of the Federal Public Defender is appointed and is DIRECTED to file a response to the government's motion to dismiss within forty-five (45) days of the date of this Order.

SO ORDERED this 24 day of November, 2015.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE